

REMARKS

In response to the Office Action dated November 5, 2001, reexamination and reconsideration of the claims is respectfully requested. Claims 1-8 are pending in the case.

In paragraph 3 on page 2 of the Office Action, claims 1-3 and 5-8 were rejected under 35 U.S.C. §102 (e) as being anticipated by Keskitalo, et al.

Applicant respectfully asserts that these rejections are improper since Keskitalo cannot be applied under 35 U.S.C. § 102(e). The Examiner is referred to the "Examination Guidelines for 35 U.S.C. § 102(e)(2), as amended by the American inventors Protection Act of 1999" issued by the Patent and Trademark Office. In those Guidelines, it is stated, under the first paragraph of the Summary, that the criteria for determining patentability under pre-AIPA § 102(e) applies to applications filed before November 29, 2000 and not voluntarily published according to 35 U.S.C. § 122(b). The Guidelines further state that the new criteria for determining patentability under post AIPA 35 U.S.C. § 102(e) applies to applications: a) filed on or after November 29, 2000, or b) that have been voluntarily published.

Applicant's application was filed in the United States on November 23, 1998, having a priority date of May 23, 1996 (PCT WO 97/46034). Therefore pre-AIPA § 102(e) applies to the present application, not post-AIPA § 102(e).

Under pre-AIPA § 102(e), a reference is a patent granted on an application for a patent by another filed in the United States before invention by the Applicant. Thus, only US patents may be used as references under the pre-AIPA 35 § 102(e). The Keskitalo reference, on the other hand, has a US filing date of January 24, 1997 (§102(e) date).

Therefore, the Keskitalo reference is not available as a reference under 35 U.S.C. § 102(e).

Therefore, Applicant requests that the Examiner withdraw the rejection of anticipation for independent claims 1 and 5 and dependent claims 2-4 and 6-8 under the Keskitalo reference.

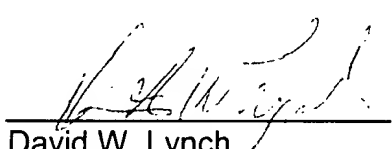
On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

Respectfully submitted,

Altera Law Group, LLC
6500 City West Parkway, Suite 100
Minneapolis, MN 55344-7701
952.253.4104

Date: 1/23/02

By:


David W. Lynch
Reg. No. 36,204

DWL/tjs/mar